

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-0133-PST-E TCEQ ID: RN101495539 CASE NO.: 23791
RESPONDENT NAME: CEDAR PARK E & J, LTD.

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 430 North Bell Boulevard, Cedar Park, Williamson County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 9, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 40px;">TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320; Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 40px;">TCEQ Enforcement Coordinator: Mr. Colin Barth, Enforcement Division, MC 128, (512) 239-0068</p> <p style="margin-left: 40px;">TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929</p> <p style="margin-left: 40px;">Respondent: Mr. Edward S. Gernert, Jr., President, Cedar Park E & J, Ltd., 4520 Hibiscus Drive, Austin, Texas 78739-1424</p> <p style="margin-left: 40px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

RESPONDENT NAME: CEDAR PARK E & J, LTD.
DOCKET NO.: 2005-0133-PST-E

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Type of Investigation:	Total Assessed: \$23,625	Corrective Actions Taken:
<input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review	Total Deferred: \$20,025*	The Executive Director recognizes that the Respondent no longer owns the property or Facility.
Date of Complaints Relating to this Case: None	<input type="checkbox"/> Expedited Settlement	The Executive Director further recognizes that the outstanding balance for UST fees for 2005 was paid by the Respondent on November 21, 2005.
Dates of Investigation Relating to this Case: October 20, 2004 and January 3, 2005	<input checked="" type="checkbox"/> Financial Inability to Pay	
Date of NOE Relating to this Case: December 21, 2004	Total Paid/Due to General Revenue: \$100/\$3,500	
Background Facts: An EDPRP was filed on August 24, 2005. The Respondent filed an Answer on September 13, 2005, and the matter was referred to SOAH. The Respondent requested a financial inability to pay analysis. The TCEQ Financial Division conducted a review and determined that the Respondent could pay \$3,600 (\$100/mo. for 36 months). The Respondent signed an Agreed Order on October 26, 2006, and submitted a revised Agreed Order on April 11, 2007. A follow-up financial review was then requested to verify that the Respondent was still eligible for an FIP deferral.	The Respondent has paid \$100 of the undeferred administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 each.	
PST:	Site Compliance History Classification	
1. Failed to install overfill prevention equipment on each underground storage tank ("UST"). Specifically, the USTs were not equipped with a valve or other device which is designed to prevent overfill during product transfer [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].	<input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor	
2. Failed to conduct the annual line leak detector test on each UST to determine performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].	Person Compliance History Classification	
3. Failed to make available, to a common carrier, a valid and current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].	<input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor	
Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Applicable Penalty Policy: September 2002	
	*Explanation: The TCEQ Financial Division conducted an inability to pay analysis and determined that \$3,600 was the amount which the Respondent could afford to pay.	

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to ensure that a delivery certificate is renewed by timely and proper submission of a new UST Registration and Self-Certification Form to the Commission [30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)].</p> <p>5. Failed to investigate within 30 days suspected releases from three USTs and to report within 24 hours based on statistical inventory reconciliation ("SIR") results. The SIR reports indicated unacceptable results for November 2003 and February, March, and August 2004 for the diesel tank; October 2003 and March 2004 for the premium tank; and January and March 2004 for the unleaded tank [30 TEX. ADMIN. CODE §§ 334.72 and 334.74].</p> <p>6. Failed to pay the underground storage tank fee for fiscal year 2005. Specifically, TCEQ Financial Administration Account No. 0054125U was found to have an outstanding balance [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p>		



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision December 10, 2004

DATES	Assigned	28-Dec-2004	PCW	21-Jan-2005	Screening	13-Jan-2005	Priority Due	26-Feb-2005	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Cedar Park E & J, Ltd.
Reg. Ent. Ref. No.	RN101495539
Additional ID No(s)	Petroleum Storage Tank Registration No. 53512
Facility/Site Region	11-Austin
Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	23791	No. of Violations	6
Docket No.	2005-0133-PST-E	Order Type	1660 with deferral
Case Priority	2	Enf. Coordinator	Colin Barth
Media Program(s)	Petroleum Storage Tank	EC's Team	Enforcement Team 7
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$1,125
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Notes The Respondent was issued a Notice of Violation (NOV) dated April 24, 2000 for similar/same violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes The Respondent is not yet in compliance.

Economic Benefit	0% Enhancement	Subtotal 6	\$0
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Total EB Amounts	\$759	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,838	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$23,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$23,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$23,625
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DEFERRAL	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral offered for non expedited case.

PAYABLE PENALTY	\$23,625
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Screening Date	13-Jan-2005	Docket No.	2005-0133-PST-E	PCW
Respondent	Cedar Park E & J, Ltd.	Policy Revision 2 (September 2002)		
Case ID No.	23791	PCW Revision December 10, 2004		
Reg. Ent. Reference No.	RN101495539			
Additional ID No(s)	Petroleum Storage Tank Registration No. 53512			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Colin Barth			
Site Address	430 North Bell Boulevard, Cedar Park, Williamson County, Texas			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)			
Component	Number of...	Enter Number Here	Adjust...
NOVs	Written NOVs with same or similar violations as those in the current enforcement action. (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders; agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were disclosed)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **5%**

>> Repeat Violator (Subtotal 3)			
No	<input type="checkbox"/>	Adjustment Percentage (Subtotal 3)	0%

>> Compliance History Person Classification (Subtotal 7)			
Average Performer	<input type="checkbox"/>	Adjustment Percentage (Subtotal 7)	0%

>> Compliance History Summary			
Compliance History Notes	The Respondent was issued a Notice of Violation (NOV) dated April 24, 2000 for similar/same violations.		

Total Adjustment Percentage (Subtotals 2, 3, & 7) **5%**

Screening Date 13-Jan-2005		Docket No. 2005-0133-PST-E		PCW
Respondent Cedar Park E & J, Ltd.		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 23791		<i>PCW Revision December 10, 2004</i>		
Reg. Ent. Reference No. RN101495539				
Additional ID No(s) Petroleum Storage Tank Registration No. 53512				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Colin Barth				
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>		
Primary Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.51(b)(2)(C)</div>		
Secondary Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">Tex. Water Code § 26.3475(c)(2)</div>		
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failure to install overfill prevention equipment on each underground storage tank ("UST"). Specifically, the USTs were not equipped with a valve or other device which is designed to prevent overfill during product transfer, as documented during the October 20, 2004 investigation.</div>		
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
>> Environmental, Property and Human Health Matrix				
OR	Release		Harm	
		Major	Moderate	Minor
	Actual	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>
	Potential	<div style="border: 1px solid black; padding: 2px; text-align: center;">X</div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>
		Percent		<div style="border: 1px solid black; padding: 2px;">25%</div>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>
Percent		<div style="border: 1px solid black; padding: 2px;"></div>		
Matrix Notes		<div style="border: 1px solid black; padding: 5px;">Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>		
Adjustment				<div style="border: 1px solid black; padding: 2px;">-\$7,500</div>
Base Penalty Subtotal				<div style="border: 1px solid black; padding: 2px;">\$2,500</div>
Violation Events				
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>		
mark only one use a small x	daily	<div style="border: 1px solid black; padding: 2px;"></div>		
	monthly	<div style="border: 1px solid black; padding: 2px; text-align: center;">X</div>		
	quarterly	<div style="border: 1px solid black; padding: 2px;"></div>		
	semiannual	<div style="border: 1px solid black; padding: 2px;"></div>		
	annual	<div style="border: 1px solid black; padding: 2px;"></div>		
	single event	<div style="border: 1px solid black; padding: 2px;"></div>		
<div style="border: 1px solid black; padding: 5px; text-align: center;">One monthly event is recommended from the date of the investigation, October 20, 2004, to the date compliance was achieved, October 22, 2004.</div>				
Violation Base Penalty		<div style="border: 1px solid black; padding: 2px;">\$2,500</div>		
Economic Benefit (EB) for this violation				
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$1</div>		
Statutory Limit Test				
Violation Final Penalty Total				<div style="border: 1px solid black; padding: 2px;">\$2,625</div>
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$2,625</div>

Economic Benefit Worksheet

Respondent: Cedar Park E & J, Ltd.
 Case ID/No: 23791
 Reg. Ent. Reference No: RN101495539
 Additional ID/No(s): Petroleum Storage Tank Registration No. 53512
 Media [Statute]: Petroleum Storage Tank
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment	\$1,448	20-Oct-2004	22-Oct-2004	0.0	\$0	\$1	\$1
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to install a new drop tube into the unleaded tank, calculated for the time frame from the date of inspection (October 20, 2004) to the date of compliance (October 22, 2004).

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for-AVOIDED costs

Approx. Cost of Compliance \$1,448

TOTAL \$1

Violations are assessed from the date of the investigation. If a violation is assessed on a date other than the date of the investigation, the violation is assessed as if it occurred on the date of the investigation.

Violations are assessed from the date of the investigation.

Violations are assessed from the date of the investigation.

Screening Date 13-Jan-2005	Docket No. 2005-0133-PST-E	PCW
Respondent Cedar Park E & J, Ltd.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 23791	<i>PCW Revision December 10, 2004</i>	
Reg. Ent. Reference No. RN101495539		
Additional ID No(s). Petroleum Storage Tank Registration No. 53512		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Colin Barth		
Violation Number 2		
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III)	
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(a)	
Violation Description	Failure to conduct the annual line leak detector test on each UST to determine performance and operational reliability.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm			
			Major	Moderate	Minor
OR	Actual				
	Potential	X			
				Percent	25%

>> Programmatic Matrix:

	Falsification	Major	Moderate	Minor	
				Percent	

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the date of the investigation, October 20, 2004, to the date compliance was achieved, October 22, 2004.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$252	Violation Final Penalty Total \$2,625
This violation Final Assessed Penalty (adjusted for limits) \$2,625	

Economic Benefit Worksheet

Respondent Cedar Park E & J, Ltd.
 Case ID No. 23791
 Reg. Ent. Reference No. RN101495539
 Additional ID No(s) Petroleum Storage Tank Registration No. 53512
 Media (Statute) Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs							
ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance (2)				0.0	\$0	\$0	\$0
ONE-TIME avoided costs (3)	\$240	22-Oct-2003	22-Oct-2004	1.0	\$12	\$240	\$252
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs The one-time avoided cost includes the amount to perform the annual line leak detector performance and operational reliability test on the facility's line leak detectors, calculated for the one year prior to the date of compliance (October 22, 2004).							

Approx. Cost of Compliance **\$240****TOTAL** **\$252**

Screening Date	13-Jan-2005	Docket No.	2005-0133-PST-E	PCW
Respondent	Cedar Park E & J, Ltd.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	23791			<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No.	RN101495539			
Additional ID No(s)	Petroleum Storage Tank Registration No. 53512			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Colin Barth			
Violation Number	3			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(A)(i)			
Secondary Rule Cite(s)	Texas Water Code § 26.3467(a)			
Violation Description	Failure to make available to a common carrier a valid, current TCEQ delivery certificate before delivery of a regulated substance into the USTs can be accepted.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			x
				Percent 5%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels that are protective of human health and environmental receptors.			
	Adjustment \$9,500			
	Base Penalty Subtotal \$500			

Violation Events				
Number of Violation Events		18		
mark only one use a small x	daily			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event			x
Violation Base Penalty \$9,000				
Eighteen single events are recommended based on eighteen deliveries received on July 1, 3, 8, 12, 17, 21, 25, 30, August 3, 5, 9, 13, 19, 24, 26, 27, 31 and September 1, 2004, as documented during the October 20, 2004 investigation.				

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$3	Violation Final Penalty Total \$9,450
This violation Final Assessed Penalty (adjusted for limits) \$9,450	

Economic Benefit Worksheet

Respondent Cedar Park E & J, Ltd.
 Case ID/No. 23791
 Reg. Ent. Reference No. RN101495539
 Additional ID No(s) Petroleum Storage Tank Registration No. 53512
 Media [Statute] Petroleum Storage Tank
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$50	01-May-2004	01-Jul-2005	1.2	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to post a valid TCEQ delivery certificate available for common carrier's review prior to fuel delivery. Date required (May 1, 2004) is the expiration date of the facility's last delivery certificate and the final date (July 1, 2005) is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$50

TOTAL \$3

Screening Date 13-Jan-2005		Docket No. 2005-0133-PST-E		PCW	
Respondent Cedar Park E & J, Ltd.		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 23791		<i>PCW Revision December 10, 2004</i>			
Reg. Ent. Reference No. RN101495539					
Additional ID No(s) Petroleum Storage Tank Registration No. 53512					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Colin Barth					
Violation Number 4					
Primary Rule Cite(s) 30 TAC § 334.8(c)(5)(B)(ii)					
Secondary Rule Cite(s)					
Violation Description Failure to ensure that a delivery certificate is renewed by timely and proper submission of a new UST Registration and Self-Certification Form to the Commission.					
		Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix					
Harm					
Release		Major		Moderate	
Actual		Minor			
Potential					
				Percent	
>> Programmatic Matrix					
Falsification		Major		Moderate	
Minor					
Percent		10%			
Matrix Notes		100% of the rule requirement was not met.			
		Adjustment		-\$9,000	
		Base Penalty Subtotal		\$1,000	
Violation Events					
Number of Violation Events		1			
mark only one use a small x					
daily					
monthly					
quarterly					
semiannual					
annual					
single event		X			
		Violation Base Penalty			
		\$1,000			
One single event is recommended based on the May 1, 2004 expiration date, as documented during the investigation conducted on October 20, 2004.					
Economic Benefit (EB) for this violation					
Estimated EB Amount		\$2		Statutory Limit Test	
		Violation Final Penalty Total		\$1,050	
		This violation Final Assessed Penalty (adjusted for limits)		\$1,050	

Economic Benefit Worksheet

Respondent	Cedar Park E & J, Ltd.						
Case ID No	23791						
Reg. Ent. Reference No	RN101495539						
Additional ID No(s)	Petroleum Storage Tank Registration No. 53512						
Media [Statute]	Petroleum Storage Tank						
Violation No	4						
						Percent Interest	Years of Depreciation
						5.0	15
Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$100	01-May-2004	20-Oct-2004	0.5	\$2	n/a	\$2
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs Estimated cost to renew the delivery certificate with the TCEQ from the expiration date of the facility's last delivery certificate (May 1, 2004) until the estimated date of compliance (October 20, 2004)							
Avoided Costs							
ANNUALIZED [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$100				TOTAL \$2	

Screening Date 13-Jan-2005	Docket No. 2005-0133-PST-E	PCW
Respondent Cedar Park E & J, Ltd.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 23791	<i>PCW Revision December 10, 2004</i>	
Reg. Ent. Reference No. RN101495539		
Additional ID No(s). Petroleum Storage Tank Registration No. 53512		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Colin Barth		
Violation Number 5		
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.72 and 334.74	
Secondary Rule Cite(s)		
Violation Description	<p>Failure to investigate within 30 days suspected releases from three USTs and to report within 24 hours based on statistical inventory reconciliation ("SIR") results. The SIR reports indicated unacceptable results for November 2003 and February, March and August 2004 for the diesel tank, October 2003 and March 2004 for the premium tank, and January and March 2004 for the unleaded tank.</p>	
Base Penalty		\$10,000
>> Environmental, Property and Human Health Matrix		
OR	Release	Harm
	Major Moderate Minor	
Actual	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Percent		25%
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Percent <input type="text"/>
Matrix Notes	<p>Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.</p>	
Adjustment		-\$7,500
Base Penalty Subtotal		\$2,500
Violation Events		
Number of Violation Events		3
mark only one use a small x	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
Violation Base Penalty		\$7,500
<p>Three quarterly events are recommended from the October 20, 2004 record review until the April 24, 2005 settlement deadline</p>		
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount	\$501	Violation Final Penalty Total
		\$7,875
This violation Final Assessed Penalty (adjusted for limits)		\$7,875

Economic Benefit Worksheet

Respondent: Cedar Park E & J, Ltd.
 Case ID No: 23791
 Reg. Ent. Reference No: RN101495539
 Additional ID No(s): Petroleum Storage Tank Registration No. 53512
 Media [Statute]: Petroleum Storage Tank
 Violation No: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$5,000	31-Oct-2003	01-Nov-2005	2.0	\$501	n/a	\$501
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to investigate suspected releases from two USTs based on SIR results. Date required (October 31, 2003) is the date of the first unacceptable SIR report and the final date (November 1, 2005) is projected date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

TOTAL \$501

Screening Date 13-Jan-2005		Docket No. 2005-0133-PST-E		PCW																					
Respondent Cedar Park E & J, Ltd.		<i>Policy Revision 2 (September 2002)</i>																							
Case ID No. 23791		<i>PCW Revision December 10, 2004</i>																							
Reg. Ent. Reference No. RN101495539																									
Additional ID No(s) Petroleum Storage Tank Registration No. 53512																									
Media [Statute] Petroleum Storage Tank																									
Enf. Coordinator Colin Barth																									
Violation Number 6																									
Primary Rule Cite(s) 30 Tex. Admin. Code § 334.22(a)																									
Secondary Rule Cite(s) Texas Water Code § 5.702																									
Violation Description		Failure to pay underground storage tank fee for fiscal year 2005. Specifically, TCEQ Financial Administration Account No. 0054125U was found to have an outstanding balance, as documented during a record review conducted on January 3, 2005.																							
		Base Penalty		\$10,000																					
>> Environmental, Property and Human Health Matrix																									
OR		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </table>						Harm			Release		Major	Moderate	Minor	Actual					Potential				
		Harm																							
Release		Major	Moderate	Minor																					
Actual																									
Potential																									
		Percent																							
>> Programmatic Matrix																									
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		Falsification																							
		Major	Moderate	Minor																					
		Percent																							
Matrix Notes		See note below.																							
		Adjustment		-\$10,000																					
		Base Penalty Subtotal		\$0																					
Violation Events																									
Number of Violation Events																									
mark only one use a small x		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">daily</td> <td></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td></td> </tr> <tr> <td style="text-align: center;">annual</td> <td></td> </tr> <tr> <td style="text-align: center;">single event</td> <td></td> </tr> </table>				daily		monthly		quarterly		semiannual		annual		single event									
daily																									
monthly																									
quarterly																									
semiannual																									
annual																									
single event																									
		Violation Base Penalty		\$0																					
No penalty is assessed because all penalties and interest will be assessed by the Financial Administration Division in the next billing cycle.																									
Economic Benefit (EB) for this violation			Statutory Limit Test																						
Estimated EB Amount \$0			Violation Final Penalty Total \$0																						
This violation Final Assessed Penalty (adjusted for limits)			\$0																						

Economic Benefit Worksheet

Respondent: Cedar Park E & J, Ltd.
 Case ID No: 23791
 Reg. Ent. Reference No: RN101495539
 Additional ID No(s): Petroleum Storage Tank Registration No. 53512
 Media (Statute): Petroleum Storage Tank
 Violation No: 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs		No economic benefit is associated with this violation.					

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$0		TOTAL		\$0	

Compliance History

Customer/Respondent/Owner-Operator: CN601675747 CEDAR PARK E & J, LTD. Classification: AVERAGE Rating: 4.500
Regulated Entity: RN101495539 CEDAR PARK E & J, LTD. Classification: AVERAGE Site Rating: 4.50
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 53512
Location: 430 N BELL BLVD, CEDAR PARK, TX, 78613 Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: January 13, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 13, 2000 to January 13, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Colin Barth Phone: 210-403-4077

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Comments:

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 04/24/2000 (149412)
2 12/21/2004 (339784)

N/A

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/24/2000 (149412)

Self Report? NO

Classification: Moderate

Citation:

2D TWC Chapter 26, SubChapter A 26.3475[G]

30 TAC Chapter 334, SubChapter C 334.50(a)(1)(A)

Description: Failed to have a release detection method capable of detecting a release from any portio of the UST system.

Self Report? NO

Classification: Moderate

Citation:

2D TWC Chapter 26, SubChapter A 26.3475[G]

30 TAC Chapter 334, SubChapter A 334.10(b)(2)(B)(i)

30 TAC Chapter 334, SubChapter A 334.10(b)(2)(B)(v)

Description: Failed to maintain and provide release detection records.

Self Report? NO

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.346
30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failed to provide an amended registration for any change or additional information regarding the USTs.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST CEDAR PARK E & J,
LTD.; RN101495539

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2005-0133-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cedar Park E & J, Ltd. under the authority of TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Cedar Park E & J, Ltd., appear before the Commission and together stipulate that:

1. At the time of the violations, Cedar Park E & J, Ltd. owned a convenience store with retail sales of gasoline at 430 North Bell Boulevard, Cedar Park, Williamson County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
3. The Commission and Cedar Park E & J, Ltd. agree that the Commission has jurisdiction to enter this Agreed Order, and that Cedar Park E & J, Ltd. is subject to the Commission's jurisdiction.
4. Cedar Park E & J, Ltd. received notice of the violations alleged in Section II ("Allegations") on or about December 26, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Cedar Park E & J, Ltd. of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of twenty-three thousand six hundred twenty-five dollars (\$23,625.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial

Administration Division reviewed the financial documentation submitted by Cedar Park E & J, Ltd. and determined that Cedar Park E & J, Ltd. is unable to pay part of the administrative penalty. Therefore, twenty thousand twenty-five dollars (\$20,025.00) of the penalty is deferred contingent upon Cedar Park E & J, Ltd.'s timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Cedar Park E & J, Ltd. fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Cedar Park E & J, Ltd. to pay all or part of the deferred penalty.

Cedar Park E & J, Ltd. has paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in thirty-five monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Cedar Park E & J, Ltd. fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Cedar Park E & J, Ltd. to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Cedar Park E & J, Ltd. have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Cedar Park E & J, Ltd. has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

12. The Executive Director recognizes that Cedar Park E & J, Ltd. no longer owns the property or Facility due to a bank foreclosure.

II. ALLEGATIONS

Cedar Park E & J, Ltd. is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2) by failing to install overfill prevention equipment on each underground storage tank ("UST"). Specifically, the USTs were not equipped with a valve or other device which is designed to prevent overfill during product transfer, as documented during an inspection and records review conducted on October 20, 2004.
2. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) by failing to conduct the annual line leak detector test on each UST to determine performance and operational reliability, as documented during an inspection and records review conducted on October 20, 2004.
3. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available, to a common carrier, a valid and current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, as documented during an inspection and records review conducted on October 20, 2004.
4. 30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii) by failing to ensure that a delivery certificate is renewed by timely and proper submission of a new UST Registration and Self-Certification Form to the Commission, as documented during an inspection and records review conducted on October 20, 2004.
5. 30 TEX. ADMIN. CODE §§ 334.72 and 334.74 by failing to investigate within 30 days suspected releases from three USTs and to report within 24 hours based on statistical inventory reconciliation ("SIR") results. The SIR reports indicated unacceptable results for November 2003 and February, March, and August 2004 for the diesel tank; October 2003 and March 2004 for the premium tank; and January and March 2004 for the unleaded tank, as documented during an inspection and records review conducted on October 20, 2004.
6. 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702 by failing to pay the underground storage tank fee for fiscal year 2005. Specifically, TCEQ Financial Administration Account No. 0054125U was found to have an outstanding balance, as documented during a record review conducted on January 3, 2005.

III. DENIALS

Cedar Park E & J, Ltd. generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Cedar Park E & J, Ltd. pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Cedar Park E & J, Ltd.'s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Cedar Park E & J, Ltd., Docket No. 2005-0133-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Cedar Park E & J, Ltd.. Cedar Park E & J, Ltd. is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If Cedar Park E & J, Ltd. fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Cedar Park E & J, Ltd.'s failure to comply is not a violation of this Agreed Order. Cedar Park E & J, Ltd. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Cedar Park E & J, Ltd. shall notify the Executive Director within seven days after Cedar Park E & J, Ltd. becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Cedar Park E & J, Ltd. shall be made in writing to the Executive Director. Extensions are not effective until Cedar Park E & J, Ltd. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Cedar Park E & J, Ltd. in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce

the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Cedar Park E & J, Ltd., or three days after the date on which the Commission mails notice of the Order to Cedar Park E & J, Ltd., whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.


Cedar Park E & J, Ltd.

DOCKET NO. 2005-0133-PST-E

Page 6

SIGNATURE PAGE**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission



For the Executive Director

6/20/07

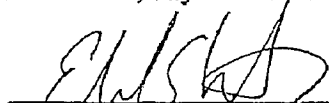
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Edward S. Gernert, Jr., President
Gernert Management, LLC,
General Partner of Cedar Park
E & J, Ltd.4-11-7
Date